

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

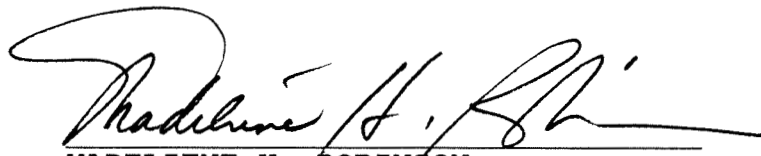


BZA APPLICATION NO. 15664

As Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on JUN 30 1994 a copy of the order entered on that date in this matter was mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

Gregory K. Melcher and
Merle L. Sykes
P.O. Box 2546
Arlington, Virginia 22202

Alverta Munlyn, Chairperson
Advisory Neighborhood Commission 2C
1127 Sursum Corda Court, N.W.
Washington, D.C. 20001


MADELIENE H. ROBINSON
Director

DATE: JUN 30 1994

15664Att/bhs

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 15664 of Gregory K. Melcher and Merle L. Sykes, pursuant to 11 DCMR 3107.2, for a variance to allow an addition to an existing nonconforming structure that now does not meet and will extend a nonconforming open court, and will create a new nonconformity in lot occupancy [Paragraph 2001.3(c)], a variance from the lot occupancy requirements (Subsection 403.2), and a variance from the minimum width of the open court requirement (Subsection 406.1) for an addition, alteration and conversion of a single-family dwelling to a two-family flat in an R-4 District at premises 1327 10th Street, N.W. (Square 367, Lot 73).

HEARING DATE: June 10, 1992
DECISION DATE: July 1, 1992

ORDER

SUMMARY OF EVIDENCE OF RECORD:

1. The property which is the subject of this application is located at 1327 10th Street, N.W., on the east side of 10th Street N.W. between N and O Streets N.W. The site is generally rectangular in shape and contains 2,079 square feet of land area with a depth of 120 feet. The average width of the site is 17.3 feet. The subject site is developed with a three-story plus basement rowhouse structure which is vacant and requires extensive renovation and rehabilitation.

The site abuts a three-story plus basement rowhouse to the north and a parking lot to the south. The surrounding area in which the site is located is primarily residential and is developed mostly with rowhouses interspersed with apartment buildings. The property is zoned R-4.

2. The applicants are proposing to renovate and convert the existing single-family rowhouse into a two-unit dwelling (flat). The structure would be reconfigured to fill an existing open court on the south side of the structure and construct a new load bearing wall which would be needed to support a new sunroom addition and to accommodate an enlarged kitchen.

3. The property is located in the R-4 District which permits matter of right development of residential uses, including detached, semi-detached and row single-family dwellings and flats with a minimum lot area of 1,800 square feet, a minimum lot width of 18 feet, a maximum lot occupancy of 60 percent, and a maximum height limit of three stories/40 feet.

4. The applicants' property, which contains 2,079 square feet of land area, exceeds the 1,800 square feet required in an R-4 District. The applicants' lot has an average width of 17.33 feet, .67 feet (or three percent) less than the 18-foot width required in the R-4 District. The existing width of the open court at the subject site is 4.31 feet, 1.69 feet (or 28 percent) less than the six feet minimum required width of an open court for a single-family dwelling. The lot occupancy with the proposed addition would be 67.5 percent, whereas a maximum of 60 percent lot occupancy is allowed.

Based on these measurements, the applicant is requesting variances from the lot occupancy requirements, a variance from the minimum width of the open court requirement and for a variance to allow an addition to an existing nonconforming structure.

5. The applicants acknowledge that the subject property would require variances to allow an addition to the structure. The applicant stated that the configuration of the lot was irregular because in the rear, a 19th century carriage house property known as 1330 Naylor Court, creates an indentation in the north lot line of 3.5 feet which extends for 40 feet. They stated that the property line was adjusted to take into account the carriage house in the back which was constructed before the subject structure. They noted that if they had that additional space they probably would not be exceeding the lot occupancy. They further stated that the unique configuration of the building creates practical difficulties for them in accommodating their personal living preference, and attaining economic vitality of the property. Additionally, the fact that the applicants stated that the structure is in a historic district limits their improvement of the property and therefore, creates a practical difficulty for them. They noted that the townhouse was constructed in the 1890's, prior to the enactment of the Zoning Regulations.

6. The applicants maintain that granting the variances will not be of substantial detriment to the public good. The applicants stated that the subject property is currently vacant and boarded-up and that they would restore the building to viable housing for themselves and for a tenant. They stated there would be no increase in the density of the number of people allowed to live there and that the visual impact would be minimal and could only be viewed from the adjacent parking lot south of the property. They also stated that the facade, style and materials to be used for the renovation and addition would be compatible with neighboring historic properties and would enhance the whole street.

7. The applicants maintains that the subject property is not the only lot in the area which required variances. Directly to the north of the subject property there was one 30-foot wide lot that

was split into two 15-foot wide lots and obtained a variance from the Board of Zoning Adjustment.

8. By report dated June 3, 1992, and through testimony at the hearing, the Office of Planning (OP), noted the physical characteristics of the subject site, the proposed use, and the relief requested. With regard to the variance from the lot occupancy requirements, OP noted that the subject site is located in an R-4 District which requires a minimum lot area of 1,800 square feet and a minimum lot width of 18 feet. Although the site exceeds the lot area requirements (2,079 square feet of land area), it is deficient in its average width. The average width of the lot is 17.3 feet rather than 18 feet as required. However, this deficiency in lot width is less than 20 percent. As such, the lot could be developed without the need for zoning relief which would require approval from the Board.

With regard to the variance from the minimum width of the open court requirement, OP stated that the existing width of the open court at the subject site is 4.31 feet. This width would continue to remain the same after the proposed alterations and additions to the building are made. However, the requirement for the width of the open court would be changed due to the conversion of the structure from a single-family dwelling to a flat. The minimum required width of an open court for a single-family dwelling is six feet, whereas the required minimum width for all other structures (including a flat) is ten feet. As such, the nonconformity with respect to the width of an open court would be increased, even though the proposed addition would not change the existing width of the open court.

With regard to the variance to allow an addition to an existing nonconforming structure, OP stated it does not oppose the proposed load bearing wall addition in the rear to support new construction if such a wall is structurally required by the District of Columbia building code. However, OP believes alternate design solutions could be found to eliminate the need for the addition in the existing open court portion of the structure. Moreover, the Office of Planning believes that the proposed addition to the existing nonconforming structure and the resulting increase in the lot occupancy is caused by the applicants' proposal to convert the structure to a two-unit dwelling and provide for other nonexistent amenities such as a sunroom and a larger kitchen. Therefore, OP recommends that the Board deny this application.

9. By letter dated May 11, 1992, the Metropolitan Police Department stated that based upon its review of this application, it does not appear that the construction proposed by this application will affect the public safety in the immediate area or

generate an increase in the level of police services now being provided. Accordingly, the department does not oppose this application.

10. Advisory Neighborhood Commission (ANC) 2C filed a letter recommending approval for the subject application.

11. Letters in support of the application were filed by 27 neighbors and the Blagden Alley Neighborhood Association. The letters were addressed to the ANC 2C and stated that based on past renovation projects of the applicants, that the proposed project will enhance the neighborhood and return boarded-up houses to habitable condition.

12. A letter in support of the application was also filed by Ward 2 Councilmember Jack Evans.

13. No one appeared at the hearing to testify in opposition to the application.

FINDINGS OF FACT:

Based on the evidence of record the Board finds as follows:

1. The subject site is generally rectangular in shape and has no unusual topographic features.
2. The Board finds no unique features of the property.
3. The Board agrees with the recommendation of the OP.
4. The ANC report offered no issues or concerns.

CONCLUSIONS OF LAW AND OPINION:

Based on the foregoing findings of fact and evidence of record the Board concludes that the applicant is seeking variances from the lot occupancy, minimum width of the open court, and to allow an addition to a nonconforming structure requirements to reconfigure the interior of an existing single-family rowhouse into a flat in an R-4 District.

Granting such variances requires a showing through substantial evidence of a practical difficulty upon the owner arising out of some unique or exceptional condition of the property such as exceptional narrowness, shallowness, shape or topographical conditions. Further, the Board must find that granting the application will not be of substantial detriment to the public good and will not substantially impair the intent, purpose and integrity of the zone plan.

Granting a variance to allow an addition to a nonconforming structure requires a showing that the addition or enlargement itself will not increase or extend any existing, nonconforming aspect of the structure, and will not create any new nonconformity of structure and addition combined.

The Board concludes that the applicants have not met the burden of proof. The existing structure already exceeds the maximum lot occupancy allowed and is nonconforming. The subject lot occupancy with the proposed addition would be 67.5 percent, whereas a maximum of 60 percent lot occupancy is allowed. The total lot occupancy at the subject site would exceed by 156 square feet (12.8 percent) the permitted lot occupancy. The Board concludes that the current width of the open court is nonconforming, it is 4.3 feet, whereas a minimum of six feet is required for a single-family dwelling. If the addition is made, the nonconforming aspect of the width of the court would increase. A ten-foot wide court is required for a flat.

The Board concludes that it does not oppose the construction of a new rear wall for structural reasons, if required by the District of Columbia Building Code. However, the Board concludes that the applicants have not met the, practical difficulty tests, in that the proposed reconfiguration of the design of the house is more an issue of convenience as opposed to an issue of practical difficulty.

The Board further concludes that alternate design solution can be found within the parameters of the existing structure to remove the necessity of in-fill in the open court which would substantially increase the nonconforming lot occupancy.

Based on the foregoing, the Board orders that the application be **DENIED**.

VOTE: 3-0 (Angel F. Clarens, John G. Parsons, and Paula L. Jewell to deny; Sheri M. Pruitt and Carrie L. Thornhill not voting, not having heard the case).

